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abas 1 Debtor / Movant NOV 1 4 2011 Eric Solorio, in Pro Se 2 34 Sage Grouse Court Sacramento, CA 95834 UNITED STATES BANKRUPTCY COURT Telephone: (916) 769-3777 3 EASTERN DISTRICT OF CALIFORNIA 4 UNITED STATES BANKRUPTCY COURT 5 EASTERN DISTRICT OF CALIFORNIA SACRAMENTO DIVISION 6 7 8 Case No. 10-36484-A-7 In re: 9 Chapter 7 Proceedings ERIC KHAN SOLORIO, and 10 ELENA VALERJEVNA SOLORIO. **ERIC K. SOLORIO'S DECLARATION** IN SUPPORT OF MOTION TO FIND Debtors. 11 LARRY DEANE, DONALD WANLAND 12 JR., JASON BURGESS AND JOHN SINADINOS, IN CONTEMPT OF 11 U. S. C. §524 and §362(a), IMPOSE 13 SANCTIONS AND AWARD PUNITIVE 14 DAMAGES JOHN R. ROBERTS. Trustee. 15 December 19, 2011 Date: 10:00 a.m. Time: 16 Judge: Honorable Michael S. McManus 17 Dept.: Ctrm: 28 Place: U.S. Bankruptcy Court 18 501 "I" Street 7<sup>th</sup> Floor 19 Sacramento, CA 95814 20 21 22 I, Eric K. Solorio, declare: 23

- 1. I have personal knowledge of the matters stated in this declaration and, if called as a witness, would testify competently under oath to these facts.
- 2. I have always been and continue to be the Manager of Natomas Gardens Investment Group IIc ("Natomas").
- 3. As the Manager of Natomas, I retained Mr. Barth and sought his assistance because Messrs. John Sinadinos and Stanley Foondos had refused my

access to the books and records of two partnerships that Natomas was a 45% partner in - Village Capital group IIc and Vintage Creek IIc.

- 4. Attached to this declaration as **Exhibit A** is a true and correct copy of a letter dated April 4, 2008, that I directed Natomas' counsel, Thomas Barth, to write and send to John Sinadinos and Stanley Foondos in an effort to obtain the books and records of Village Capital group IIc and Vintage Creek IIc. The letter was in fact sent to Messrs. Sindinos and Foondos via facsimile and US Mail.
- 5. Attached to this declaration as **Exhibit B** is a true and correct copy of a letter dated May 9, 2008, that I directed Natomas' counsel, Thomas Barth, to write and send to Carl Blaine, Esq., counsel for Messrs. John Sinadinos and Stanley Foondos. The letter was sent to Mr. Blaine in an effort to obtain access to the books and records of Village Capital group IIc and Vintage Creek IIc.
- 6. In late 2003, I was introduced to Larry Deane ("Deane") through a mutual acquaintance, Steven Westlake. Deane purported to personally have the financial capacity to fund development projects. It soon became evident that Deane did not have any financial capacity for such and he then introduced me to a local attorney who was a private money manager and could purportedly fund Natomas' development projects. The private money manager was John Sinadinos ("Sinadinos") who eventually invested money from his Chicago-based investors into Natomas' projects. Both Sinadinos and his investors vested their economic interest in Natomas' projects through separate companies other than Natomas; such separate companies were not members of Natomas at any time.
- 7. Between 2004 and 2007, the two separate partnerships, Village Capital Group IIc and Vintage Creek IIc, received a total of more than \$10 million dollars of proceeds from the sales of the land that Natomas had originally acquired rights to purchase and develop. Those monies were paid through escrow by KB Homes and Tim Lewis Communities, respectively.
  - 8. On or about August 2007, after numerous failed attempts to gain access to

Village Capital Group IIc and Vintage Creek IIc books and records, I became suspicious of potential wrongdoing against Natomas by Sinadinos and Foondos. I then decided it was necessary and therefore did retained a forensic accountant, Joy Urquart with the firm Ultezen & Co., a private investigator, Randy Sprague, and legal counsel, Thomas Barth, Tozer & Timm, in order for Natomas to gain access to the books and records.

- 9. I am not an attorney nor do I have any training in law nor have I been trained in how to do legal research or prepare legal documents.
- 10. Since Larry Deane filed his Motion to Dismiss, I have spent more than 160-hours reviewing, researching and understanding his Motion and the 38 court cases and a dozen statutes he cited and argued in over 400 pages of legal documents that he, Donald Wanland Jr., Jason Burgess and John Sinadinos filed in the District Court after I filed my petition for bankruptcy.
- 11. Since Larry Deane filed his Motion to Dismiss, I also have spent more than 250-hours researching more than 150 additional court cases to inform me in preparing and filing my own Opposition and a Supplemental Brief which cited 25 of those cases; and also preparing this Motion citing another 24 of those cases and nine statutes.
- 12. As a result of spending more than 400-hours responding to the violations of the automatic stay, I have missed 45-days of work from my job where I manage project teams consisting of more than 20 professionals, each. Attached to this declaration as **Exhibit C** are copies of my time sheets showing which work days I've missed.
- 13. As a result of spending more than 400-hours responding to the violations of the automatic stay, I've spent significantly less time with my two daughter who were age 3 and 5, respectively, at the time of Deane filing his Motion. My being unavailable to assist my wife with raising our children has caused significant hardships in our marriage over the past 17-months and resulted in both my wife and I being physically exhausted and getting agitated easily, and arguing with each other.
- 14. As a result of having to deal with the violations of the automatic stay, I have suffered from significant emotional distress causing physical side-effects such as:

migraine headaches, nausea and vomiting, loss of appetite, difficulty sleeping, anxiety and depression. These physical side-effects have caused me to take at least 30-days off of work from being sick. The nausea and vomiting were so bad that I had to seek both diagnosis and treatment. I have seen my doctor, Mr. Arash Nassim MD, on numerous occasions since Larry Deane filed his Motion to Dismiss, including twice during June 2010 and again on August 18, 2010 and March 28, 2011. Attached to this declaration as **Exhibit D** is a printout I obtained on November 11, 2011, from Mercy Medical Group when I asked for a list of my past appointments.

- 15. Dr. Nassim diagnosed me with depression and anxiety, and prescribed medication for me to take as needed to avoid the nausea and vomiting and difficulty sleeping. He prescribed other treatments also which I'm doing. Since Larry Deane first violated the automatic stay, in order to treat the physical side-effects from the emotional distress, I've needed to take my medication at least 150 times and had to obtain refills on August 18, 2010, January 21, 2011, and August 9, 2011. Attached to this declaration as **Exhibit E**, which lists the dates I obtained refills.
- 16. As the Manager of Natomas and also Orchard Park Development IIc ("Orchard"), I am aware of ongoing dialogue between Orchard's counsel and Natomas' counsel with Trustee Roberts. It is my understanding that during the past 12-months, in discussing the status and value of Natomas' RICO claims with Natomas' counsel, Trustee Roberts has stated that Sinadinos had contacted Trustee Roberts and attempted to purchase my 57% interest in Natomas and my 100% interest in Orchard from the bankruptcy estate, soon after the petition was filed and on several occasions after that, including immediately after Deane lost his recent Motion to dismiss.
- 17. Attached to this declaration as **Exhibit F** is a true and correct copy of an Adobe pdf that I printed out from the State Bar of California's webpage (search page) at: <a href="http://members.calbar.ca.gov/fal/Member/Detail/122462">http://members.calbar.ca.gov/fal/Member/Detail/122462</a> which provided public information on Donald Wanland Jr. Esq. The bottom of the webpage provides links to both, the pdf and Microsoft Word versions of an "Opinion of the Review Department of

the State Bar Court", attached to this declaration as **Exhibit G**. The Opinion discusses in detail Wanland's "multiple acts of wrongdoing and uncharged misconduct", stayed suspension from the California State Bar Court, five-plus *years* of probation, contempt charges and sanctions for more than \$13,700 (which increased to more than \$25,000) issued against him by the United States Bankruptcy Court.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed this 14th day of November, 2011, at Sacramento, California.

Date: November 14, 2011

Eric Solario

# **Exhibit A**Thomas Barth letter dated April 4, 2008

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# BARTH TOZER & TIMM LLP

Thomas W. Barth | Paul W. Tozer | Bruce M. Timm

April 4, 2008

#### VIA FACSIMILE & U.S. MAIL

John G. Sinadinos, Esq. 7700 College Town Drive, Suite 250 Sacramento, CA 95826

Stanley J. Foondos, CPA 7700 College Town Drive, Suite 210 Sacramento, CA 95826

Re: Vintage Creek LLC; Village Capital Group LLC;

Madera Avenue 12 Capital Group LLC

Dear Messrs. Sinadinos and Foondos:

Our firm has been retained to represent Eric Solorio and Orchard Park Development, LLC. On behalf of Mr. Solorio, as manager of the Natomas Gardens Investment Group LLC and Orchard Park Development LLC, I request immediate access to all books, records, financial statements, and documents supporting the transactions with respect to the business of the three separate entities. Vintage Creek LLC, Village Capital Group LLC, and Madera Avenue 12 Capital Group LLC. I understand that you are both involved, whether as co-managers, partners in South Watt and Florin Partners and Caselman & Carlisle Partners, or in your professional capacities, in the management of those three entities. As you know by the terms of the operating agreements for the entities, the documents you must make available must include financial statements for the six most recent years, internal books and records for the current and three most recent years, and all relevant records indicating the amount, cost, and value of all property which the entities have ever owned, claimed, possessed, or controlled. I anticipate that the majority of such books, records, and supporting documents have been maintained in your offices, as the managers for these entities, or in the case of Mr. Poondos, as the accountant for the entities.

I enclose a release form for you to sign, to make available for inspection and copying all company records in the possession of third parties, including banks holding accounts for the subject entities, and any title companies, such as Stewart Title, involved in handling property transactions for the entities. I will coordinate with you the designation of appropriate financial institutions and title companies, for completion of the release forms.

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John Sinadinos, Esq. Stanley J. Foondos, CPA April 4, 2008 Page 2

I also demand that you take all necessary actions to preserve all records in your possession, custody, or control, whether in electronic form or hard copy, relating to the business activities of the subject entities. In particular, I demand that you preserve all records stored on computers and all other electronic devices, pertaining to the business activities of the subject entities. I also demand that you suspend any and all deletion practices that would result in the loss of electronic data, which may be relevant for possible use in litigation regarding the business activities of the three entities. I make these demands under the authority of California Code of Civil Procedure Section 2023.010 et seq., in order to preserve any and all electronic and other records from possible destruction or compromise, which might prevent their discovery and use in any subsequent litigation.

Please contact me by close of business today, April 4, 2008, to coordinate a visit to your offices by a forensic accounting consultant on Wednesday and Thursday of next week, April 9 and 10, 2008. I anticipate that the consultant will review all records and select those records and supporting documents for copying, which will be necessary for the consultant's scope of work.

We are seeking information in the first instance which may relate to unauthorized use or co-mingling of funds among the subject entities and from these entities to third parties, without legal justification. I am aware of certain bank records and copies of checks, which are evidence of loans originated by Mr. Sinadinos to other entities, including your law firm, which may ultimately prove to be inappropriate and unauthorized use of assets of the companies. Also, the inquiry will be focused, among other goals, on the propriety of seeking court appointment of a receiver for one or more of the subject entities.

I look forward to speaking with you this afternoon, to coordinate the inspection and copying of documents pertaining to the companies.

Very truly yours,

BARTH TOZER & TIMM LLP

THOMAS W. BARTH

Enclosure

# Exhibit B

Thomas Barth letter dated May 9, 2008 to Carl Blaine, Esq.,

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# BARTH TOZER & TIMM 113

Thomas W. Barth | Paul W. Tozer | Bruce M. Timm

May 9, 2008

#### VIA FACSIMILE & U.S. MAIL

Carl P. Blaine, Esq.
Wagner Kirkman Blaine Klomaprens
& Youmans LLP
10640 Mather Boulevard
Mather, CA 95655

Re:

Vintage Creek LLC; Village Capital Group LLC;

Madera Avenue 12 Capital Group LLC

Dear Carl:

I expect that you have received a copy of the letter by John Sinadinos on his law office stationery, dated May 8, 2008, denying the representatives of my client, Eric Solorio, any further access to company records and supporting documents, including escrow files. In support of his denial, Mr. Sinadinos refers to a Corporations treatise, for the legal argument that "the right of a member/shareholder to inspect the books is limited." John refers to his "courtesies" extended to Joy Urquhart, of Mike Ueltzen's company, offering access to escrow documents and other files, and expending his staff time, copying various files at no charge.

The time for our reliance on John Sinadinos' "courtesy" has expired. As I will discuss in more detail below, his compliance with required production of company records has been spotty at best. He has offered open access to the records, including the escrow documents both in his possession and at the title companies, only subsequently to renege on those offers in the form of his most recent letter.

On behalf of Eric Solorio, in his capacity as the manager of Natomas Gardens Investment Group LLC and as a holder of an economic interest in Vintage Creek, Village Capital Group, and Madera Avenue 12 Capital Group, I demand access to all company records and supporting documents for those companies in the possession or control of your client, John Sinadinos, to inspect and copy such records for the period including calendar year 2004 to the present. The company records should include all escrow files for the multiple property transactions of Vintage, Village, and Madera Avenue 12, whether those escrow documents are located in John's possession or at the title companies. The relevant time period includes 2004 on the basis of Corporations

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Carl P. Blaine, Esq. May 9, 2008 Page 2

Code Section 17058(a)(7). I am making this demand by the authority of Corporations Code Section 17106(b), which defines the non-waivable rights of each member, manager, and holder of an economic interest in a limited liability company, upon reasonable request, for purposes reasonably related to the interest of that person, to inspect and copy during normal business hours any of the records required to be maintained by Corporations Code Section 17058. Any request, inspection, or copying may be made by Eric Solorio, or his agent or attorney, under the provisions of Corporations Code Section 17106(i).

I am also requesting a reconciliation of the capital accounts for the Vintage, Village, and Madera Avenue 12 companies, on the basis of a teleconference three days ago with Belan Wagner, Stanley Foondos, and John Sinadinos. During our conversation, Mr. Foondos agreed with the request by Belan to provide me the reconciliation.

The demand for inspection and copying of records for these companies is reasonably related to my client's interest, for multiple reasons. My client holds his interest as the manager and majority interest holder in Natomas, which itself is a 45% interest holder in Vintage and Village, and his interest as the sole member of Orchard Park Development LLC, a 25% interest holder in Madera Avenue 12. With his stake in these companies, Mr. Solorio seeks inspection and copying of company records and supporting documents to determine the value of the assets in the companies, the extent of liabilities, the severity of apparently poor record-keeping practices of Mr. Sinadinos as manager of these companies, and to assess the overall managerial performance of Messrs. Sinadinos and Foondos, who each have managerial responsibility as partners in the entities designated as managers for Vintage and Village.

The production of documents by John up to this point has been incomplete. Although I originally asked to inspect and copy company records and supporting documents for these three entities, John "volunteered" to make the copies of files he showed to Ms. Urquhart, when she visited his office. The copies we received from Kinko's include at least five or six inches of duplicate copies, and apparently there are certain files missing. For instance, Ms. Urquhart recalls seeing a particular file while in the office, which is apparently not among the copies. Also, it appears we cannot locate a fee agreement between these companies and Mr. Sinadinos, for his legal work on behalf of the companies. The documents do not include tax returns for 2004, although the companies came into existence midway through that year, and substantial financial transactions occurred in that year. While on the teleconference with Belan, Stan and John stated that there were no tax returns for 2004. If that is true, then my client's interest definitely extends to a complete review of all records documenting the financial

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Carl P. Blaine, Esq. May 9, 2008 Page 3

transactions which should have been reported in some form for tax purposes that year. As a final example, John provided me unsigned copies of the operating agreements for Madera Avenue 11 Investors LLC, and the Madera Avenue 12 company, and my client is entitled to obtain the signed versions, if they exist.

On another matter, my client has instructed me to reiterate the objections be previously communicated to John Sinadinos, regarding any transfer of company property, or any partial interest therein, for any reason. His objections have been previously communicated to John on multiple occasions, including an e-mail in October 2007, which addressed the objections to property transfers, in part, and a demand for access to company records at that time. For your information, I include a relevant portion of that e-mail from Eric to John, as follows:

"Natomas is not in agreement to allow either Village or Vintage to convey property to your investors. Natomas insists on Sorenson immediately documenting the Option - which Natomas must approve. Natomas insists on being given a complete copy of the account ledgers from inception to present for Village and Vintage. Additionally, Natomas wants copies of checks, invoices, notes; loan docs, escrow release instructions and any other document relating to funds being transferred in or out of Village and Vintage - from inception to present. Please bring the accounting docs with you Saturday or mail them to my office."

My client has had no success with his demand for access to records until the last few weeks. With respect to property transfers, there has been some indication from John that he transferred a parcel known as the "Ubungen" property to the "Johls" in settlement of unspecified claims. If that is true, then John apparently acted directly contrary to the very specific objection previously communicated in writing by Eric Solorio. I must reassert that my client objects to, and has not approved any transfer of any property interest to any investors in these companies, for any reason. Further, Eric has never received any documents regarding the required Sorensen option.

I appreciate your assistance in communicating these demands and objections to John Sinadinos and Stanley Foundos. I have appreciated the prior agreement of both you and Belan, to allow direct communication between me and John and Stan, because I anticipated that we could work efficiently toward completion of the remaining transactions between these principals. In order to complete his evaluation of the proposed purchase agreements, regarding Eric's membership interests, my client must have access and review of the documents demanded herein. Based on the tenor of John's last letter, it appears advisable that all of my communications be directed to your attention, and you can communicate your client's responses to me.

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Carl P. Blaine, Esq. May 9, 2008 Page 4

Please notify me at your earliest convenience, confirming that the records requested in my letter will be available for inspection and copying. I request that my client and his representatives have access to the records at the earliest possible time, no later than the beginning of next week.

Very truly yours,

THOMAS W. BARTH

BARTH TOZER & DIMMALP

# **Exhibit C**Eric Solorio's Time Sheets From the California Energy Commission

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Filed 11/14/11 Case 10-36484 Doc 40 CALIFORNIA ENERGY COMMISSION 16.00 8.00 8.00 168.00 8.00 116.00 52.00 20.00 116.00 Total Hours Beginning this Pay Period Total Hours **Available Hours WWG SE** 6) WWG **ABSENCE INFORMATION TOTALS** 8.00 Intermittent Employee Project Ph Activity Symbol ∀ / > 11) Check Box if NS/S V/AL CTO F HC H 9 FS Щ ₽ S В 립 ⋖ I 13) Project Time Reporting ۵ 32 Normal Total Hrs. This Pay Period (Add Lines 14 & 31) -Cash Overtime otal Hours Worked Including Overtime -Regular Time Worked (line 11 Minus 12-13) 5) CBID (FILL IN ALL COLUMNS.) Other (use appropriate symbol from instructions) →S// WCI - Approved Workerls Compensation Injury 31 Absence Totals (Add Lines 15 Through 30) Jury Duty \*\* or Subpoenaed Witness\*\*\* 28 Unapproved Leave Without Pay (AWOL) 19/8/80 D AFC 25 2003 Personal Leave Day Program Descriptions 27 Voluntary Unpaid Leave Program MLA - Family Medical Leave Act 26 Approved Leave Without Pay Attach jury duty service stub ] 4/10/40 F Vacation / Annual Leave **Apr/11** Comment 18 CTO (Overtime) Taken Attach Substantiation Holiday Credit Taken Bereavement Leave\* 29 Paid State Holiday 10) Month/Year Family Sick Leave \*\*\* Attach subpoena 21 Personal Holiday 16 Sick Leave-Self 24 Personal Leave Excess Taken 4) AWS Pio Pico 2 12 13 2 2 Line No. 10 14 4 2 ဖ ω თ ŀ Certification of Supervisor. Attendance, absences and overtime recorded have been verified and/or authorized in accordance with Supervisor has knowledge of reason for sick leave. 25 26 27 28 29 30 22 23 24 25 26 27 28 29 9) Unit Code 29 Excess Summary 3) Position No. WCI\* (dates 4756-008 (Enter symbol and number of hours in date blocks; use symbols shown in section to the right) 28 œ 27 œ Excess Earned (WE) Excess Taken (TE) 26 œ, 80 25 Jury Duty\*\* 24 23 24 0 2) STO 23 10 11 12 13 14 15 16 17 18 19 20 21 22 18 19 20 21 22 0 PL HC HC HC LP FMLA\* (dates Ö 551-29-0892 18 19 20 21 prescribed directives. ABSENCE INFORMATION 12) DAILY ATTENDANCE 0 **Full Time** General nature of Illness or Reason for Absence: Indicate date(s) and reason: Bereavement Leave\* (show relationship) Signature 1) Time Base 0 14 15 16 17 8) SSN 12 13 14 15 16 Family Illness (show relationship) S Ö and belief the facts stated are accurate and in full compliance with To the best of my knowledge 4.28.11 œί ω. 12 13 œ. œ 10 11 ္ 6 FS ω œί œ STATE OF CALIFORNIA Health Care Appt. TIME REPORT 9 89 4 5 6 9 œ Certification Of Employee. CEC 35 (REV. 2/04) 2 œ 2 œί **Eric Solorio** Illness Self Dates of Absence: 4 00 4 œ legal requirements. က 0 က က 7 ö Signature 1 31 1 2 7) Name œ ω

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Filed 11/14/11 CALIFORNIA ENERGY COMMISSION 24.00 120.00 48.00 168.00 20.00 8.00 96.00 **Total Hours** Beginning this Pay Period Total Hours **Available Hours** WWG SE 6) WWG ABSENCE INFORMATION TOTALS 40.00 Intermittent Employee Project Ph Activity Symbol DAFC 7 2 1 0 D 8 6 2 DAFC 6 2 5 5 D 8 6 1 A > 11) Check Box if V/AL CTO J/SW H H S E 9 FS 卫 H 깂 Ρ ഗ В ⋖ I <u>H</u> 13) Project Time Reporting 32 Normal Total Hrs. This Pay Period (Add Lines 14 & 31) -Cash Overtime --**S01** otal Hours Worked Including Overtime 5) CBID Regular Time Worked (line 11 Minus 12-13) FILL IN ALL COLUMNS.) 30 Other (use appropriate symbol from instructions) 31 Absence Totals (Add Lines 15 Through 30) — WCI - Approved Workerls Compensation Injury Jury Duty \*\* or Subpoenaed Witness \*\*\* 28 Unapproved Leave Without Pay (AWOL) 08/8/6 25 2003 Personal Leave Day Program Descriptions 27 Voluntary Unpaid Leave Program FMLA - Family Medical Leave Act 26 Approved Leave Without Pay Attach jury duty service stub Vacation / Annual Leave 7 4/10/40 Feb/11 Comment 18 CTO (Overtime) Taken Attach Substantiation Holiday Credit Taken 22 Bereavement Leave\* 10) Month/Year 29 Paid State Holiday Family Sick Leave \*\* Attach subpoena 21 Personal Holiday 16 Sick Leave-Self 24 Personal Leave 19 Excess Taken Steirling Solar 1 4) AWS Pio Pico 2 13 4 Line No. 1 1 23 24 25 26 27 28 38 38 11/20/6-224 Certification of Supervisor. Attendance, absences and overtime Supervisor has knowledge of reason for sick leave. recorded have been verified and/or authorized in accordance with 9) Unit Code Excess Summary 3) Position No. 4756-008 (Enter symbol and number of hours in date blocks, use symbols shown in section to the right) 28 28 œί 27 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 Excess Earned (WE) Excess Taken (TE) 26 0 23 24 25 œί Jury Duty\*\* ω 2) STO 22 20 21 22 œί ω FMLA\* (dates 551-29-0892 **=**0 ۵ ⋖ Ö œ prescribed directives. 10 11 12 13 14 15 16 17 18 19 20 0 **ABSENCE INFORMATION** 12) DAILY ATTENDANCE 0 **Full Time** General nature of Illness or Reason for Absence: Indicate date(s) and reason: Bereavement Leave\* (show relationship) 18 Signature 8. 8. FH œ 1) Time Base 80 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 Family Illness (show relationship) 80 80 and belief the facts stated are accurate and in full compliance with œ. () 2.25.11 To the best of my knowledge o 0 8 œί œ. œί б œί ω Health Care Appt. STATE OF CALIFORNIA 4 5 6 5 6 TIME REPORT 9 0 Certification Of Employee. CEC 35 (REV. 2/04) 5 o **Eric Solorio** Illness Self Dates of Absence: 3 4 FH FH FH 80 legat requirements. 0 က ω Signature 7 7) Name Ö 31 1 Ö œί

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11/14/ 24.00 40.00 8.00 176.00 Beginning this Pay Períod S CALIFORNIA ENERGY COMMISSION 6.001 40.00 Available Hours 14.00 76.00 36.00 Total Hours Total Hours 156.00 6) WWG SE ABSENCE INFORMATION TOTALS 8.00 Intermittent Employee Symbol CTOVIAL NS/F 11) Check Box if H  $\Xi$ Hd ď 8 S. Щ 귑 9 8 6 딤 Þ 8 Ŧ 13) Project Time Reporting Normal Total Hrs. This Pay Period (Add Lines 14 & 31) Cash Overtime **S01** Total Hours Worked Including Overtime DAFC 7 5 1 4 D D AFC 6 2 1 0 D Regular Time Worked (line 11 Minus 12-13) 5) CBID FILL IN ALL COLUMNS:) Other (use appropriate symbol from instructions) Project 31 Absence Totals (Add Lines 15 Through 30) --WCI - Approved Workerls Compensation Injury Jury Duty \*\* or Subpoenaed Witness \*\*\* Unapproved Leave Without Pay (AWOL) 19/8/80 D AFC 25 2003 Personal Leave Day Program Descriptions Voluntary Unpaid Leave Program FMLA - Family Medical Leave Act \*\* Attach jury duty service stub 26 Approved Leave Without Pay Vacation / Annual Leave 🖫 7 4/10/40 Solar Millennium Ridgecre Nov/10 18 CTO (Overtime) Taken Comment Attach Substantiation Holiday Credit Taken Bereavement Leave\* Paid State Holiday \*\*\* Attach subpoena Family Sick Leave 10) Month/Year Personal Holiday Sick Leave--Self 24 Personal Leave Excess Taken 4) AWS eSolar 1 Pio Pico 13 9 10 Line No. Ŋ 9 æ 0 1 1 Certification of Supervisor. Attendance, absences and overtime Supervisor has knowledge of reason for sick leave. recorded have been verified and/or authorized in accordance with 29 30 30 8 Ollosin tollynam 7 4 29 29 9) Unit Code Excess Summary ) WCI\* (dates 3) Position No. 4737-008 Enter symbol and number of hours in date blocks; use symbols shown in section to the right) 6 27 20 21 22 23 24 25 26 27 28 Excess Earned (WE) Excess Taken (TE) 26 Q V X 25 O Juny Duty\*\* 24 23 24 2) STO 22 22 FMLA\* (dates 15 16 17 18 19 20 21 551-29-0892 prescribed directives 18 19 20 4.8 ABSENCE INFORMATION 12) DAILY ATTENDANCE Bereavennent Leave\* (show relationship) General nature of Illness or Reason for Absence: Indicate date(s) and reason: **Full Time** Signature 1) Time Base 4 12. 14. 8) SSN <u>6</u> Date  $/(/30//\odot)$ 10 11 12 13 24 15 Family Illness (show relationship) 4 4 6 4 14 and belief the facts stated are accurate and in full compliance with To the best of my knowledge 12 13 Ι ω Ò ⋖ 10 ø 6 Health Care Appt. Certification Of Employee. 9 **TIME REPORT** S CEC 35 (REV. 2/04) 5 S 6 0 Illness Self Eric Solorio Dates of Absence: 3 4 7 legal requirements 5 0 œ F. F. 0 Signature N إنماق 7) Name 0

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# **Exhibit D**

A Medical Appointment Log of Eric Solorio's Doctor's Appointments Obtained on November 11, 2011, from Mercy Medical Group

Print Close

SOLORIO, ERIC K

Name: SOLORIO,ERIC K CellPagerNum: 916-769-3777 PatientLanguage: ENGLISH

MRN: 172855 McaPcp: NASSIM MD;ARASH Tel: 915-419-3777

PatAge: 43 DOB: 10/09/1968 Sex: M

FIN: FSC1: BSV FSC2: CCC

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**Exhibit E**Eric Solorio's Prescription Receipt Log From Bel-Air Pharmacy

Page

11-Nov-11

Patient Medical Expenses Report

Patient medical Expenses Repor

ERIC

SOLORIO

BEL AIR PHARMACY #528

4352 GIBRALTER ST

3250 ARENA BOULEVARD

SACRAMENTO

CA 95834

SACRAMENTO CA 95834

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01/21/11 411	4277	30TAB ALPRAZOLAM TABS 0.5MG	00781-1077-05	Dr.NASSIM		10.29	10.29	0.00
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Page totals for ERIC

SOLORIO

11-Nov-11

\$67.28

\$62.24

\$5.04

Pharmacist Signature:

\*\*\*\*\* DUPLICATE

RECEIPT \*\*\*\*

# Exhibit F

State Bar of California's Webpage
Public Information Report on Donald Wanland Jr. Esq.

http://members.calbar.ca.gov/fal/Member/Detail/122462

**Doc 40** 

Sunday, November 13, 2011

# THE STATE BAR OF GALLEDRINA

#### ATTORNEY SEARCH

## Donald Martin Wanland Jr - #122462

Current Status: Active

This member is active and may practice law in California.

See below for more details.

#### Profile Information

The following information is from the official records of The State Bar of California.

Bar

122462

Number:

Address:

Wanland & Spaulding

705 University Ave

Sacramento, CA

95825

Map it

Sacramento

e-mail:

Fax Number:

Undergraduate

**Phone Number:** 

School:

Not Available

Univ of California Berkeley; Berkeley

(916) 921-5597

(916) 921-1828

District:

County:

District 2

Sections:

None

Law School:

Santa Clara Univ SOL; Santa Clara

# Status History

**Effective Date** 

Status Change

Present

Active

2/18/1986

Admitted to The State Bar of California

Explanation of member status

## Actions Affecting Eligibility to Practice Law

**Effective Date** 

Description

**Case Number Resulting Status** 

**Disciplinary and Related Actions** 

Overview of the attorney discipline system.

4/15/2011

Discipline, probation; no actual susp.

08-O-13238

4/5/2002

Discipline, probation; no actual susp.

00-O-11320

#### **Administrative Actions**

This member has no public record of administrative actions.

Copies of official attorney discipline records are available upon request.

**Doc 40** 

Explanation of common actions

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### State Bar Court Cases

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NOTE: The State Bar Court began posting public discipline documents online in 2005. The format and pagination of documents posted on this site may vary from the originals in the case file as a result of their translation from the original format into Word and PDF. Copies of additional related documents in a case are available upon request. Only Opinions designated for publication in the State Bar Court Reporter may be cited or relied on as precedent in State Bar Court proceedings. For further information about a case that is displayed here, please refer to the State Bar Court's online docket, which can be found at: http://apps.statebarcourt.ca.gov/dockets/dockets.aspx

**DISCLAIMER:** Any posted Notice of Disciplinary Charges, Conviction Transmittal or other initiating document, contains only allegations of professional misconduct. The attorney is presumed to be innocent of any misconduct warranting discipline until the charges have been proven.

Effective Date	Case Number	Description
4/15/2011	08-O-13238	Opinion [PDF] [WORD]

Start New Search »

10 1/1 1 / 11/100 4/0

11/10/0011

**Exhibit G**"Opinion of the Review Department of the State Bar Court"

### PUBLIC MATTER - NOT DESIGNATED FOR PUBLICATION

Filed October 6, 2010

# REVIEW DEPARTMENT OF THE STATE BAR COURT

In the Matter of	)	No. <b>08-O-13238</b>
DONALD MARTIN WANLAND, JR.,	)	OPINION ON REVIEW
A Member of the State Bar.	)	
A Welloci of the State Bar.		

# I. STATEMENT OF THE CASE

Donald Martin Wanland, Jr. and the State Bar's Office of Probation (Probation) failed to perform their respective professional duties. Wanland stipulated to disciplinary probation terms in 2002, but failed to timely comply with them. Probation did not properly monitor Wanland's compliance and ignored his late filings. As a result, the Office of the Chief Trial Counsel (State Bar) did not file disciplinary charges until 18 months after Wanland had completed his five-year probation period.

The hearing judge concluded that Wanland violated his probation terms and recommended a 45-day actual suspension subject to two years' probation. In choosing an actual suspension, the hearing judge found aggravation in Wanland's prior discipline record, multiple acts of wrongdoing and uncharged misconduct. The hearing judge also assigned mitigation credit because Wanland completed each probation requirement, albeit late, and the State Bar caused prejudice to Wanland by not promptly filing the case. Wanland seeks review.

Wanland contends that he is not culpable of violating his probation, and any actual suspension is too harsh. The State Bar did not seek review but requests that we find additional culpability and aggravation, and recommends at least a 90-day actual suspension. The issue before us is: Does the State Bar's delay in filing its Notice of Disciplinary Charges (NDC) sufficiently mitigate this case to justify a stayed suspension for Wanland's violations of his 2002 probation?

### III. SUMMARY OF THE CASE

Upon independent review of the record (Cal. Rules of Court, rule 9.12), we conclude that the State Bar's delayed filing justifies a stayed suspension. Wanland did not timely comply with his probation terms, but the delayed filing of the disciplinary proceeding significantly mitigates this case. Imposing an actual suspension three years after Wanland satisfied all of his probation conditions would be punitive and would not serve to protect the public or the legal profession. We recommend a 90-day stayed suspension.

#### IV. FINDINGS OF FACT

The following facts have been established by clear and convincing evidence.<sup>1</sup> On March 6, 2002, the Supreme Court ordered that Wanland serve a 30-day stayed suspension and a five-year probation for violating a bankruptcy court order to return a former client's file. The bankruptcy court ordered Wanland to pay attorneys' fees and a fine for each day that he failed to produce the file, resulting in a total of \$12,603 (the coercive sanction). Later, the court fined him \$13,699.12 for contempt (the contempt sanction) when he failed to pay the initial fine.

In these proceedings, Wanland stipulated to probation conditions that included filing quarterly reports, successfully completing Ethics School by a specific date and paying restitution.

<sup>&</sup>lt;sup>1</sup> Evidence by a clear and convincing standard requires that the proof be "'so clear as to leave no substantial doubt' [and must be] 'sufficiently strong to command the unhesitating assent of every reasonable mind.'" (*Sheehan v. Sullivan* (1899) 126 Cal. 189, 193.)

He agreed to the five-year probation so he could make restitution payments of \$500 per month each to the Internal Revenue Service (IRS) for the coercive sanction and to Wells Fargo Bank for the contempt sanction.

Lydia Dineros, Wanland's probation deputy, regularly communicated with him during the probationary period. She sent Wanland an initial letter explaining the probation requirements and warning that if he failed to timely comply, she would notify the State Bar. Consequently, Wanland sent Dineros at least 50 written communications, including probation reports and copies of money orders as proof that he paid the IRS and Wells Fargo Bank. He completed the restitution requirement in August 2004, having made 45 payments totaling \$26,302.12 over two and a half years.

But Wanland did not always timely perform his probation obligations. He made several late restitution payments. He filed his Ethics School certification two months late, mistakenly believing that he was not required to attend the course. He submitted late quarterly reports, and usually only after Dineros called to remind him. The late quarterly report filings are detailed below:

Date Due	Date Filed	
Oct. 10, 2002	Oct. 15, 2002	(5 days late)
Jul. 10, 2003	Jul. 14, 2003	(4 days late)
Jan. 10, 2004	Jan. 14, 2004	(4 days late)
Apr. 10, 2004	Apr. 21, 2004	(11 days late)
Jul 10, 2004	Aug. 5, 2004	(26 days late)
Oct. 10, 2004	Feb. 16, 2005	(129 days late)
Jan. 10, 2005	Feb. 16, 2005	(37 days late)
Apr. 10, 2005	Apr. 29, 2005	(19 days late)
Jul. 10, 2005	Oct. 3, 2005	(85 days late)
Jan. 10, 2006	Feb. 14, 2006	(35 days late)
Apr. 10, 2006	Aug. 14, 2006	(126 days late)
Jul. 10, 2006	Aug. 14, 2006	(35 days late)

Despite Wanland's tardiness, Dineros filed his late reports for over four years without any repercussions. Consequently, Wanland developed a belief that he and Dineros shared joint responsibility for his compliance with probation terms.

In March 2007, Wanland completed his probation. One year later, a new probation deputy, Cindy Jollotta, was assigned to his case. Dineros had retired from the State Bar in December 2006, and no one in Probation actively maintained Wanland's file for the 15-month period from Dineros' departure to Jollotta's assignment.

Jollotta noted several deficiencies when she reviewed Wanland's file. First, she could not locate the final three quarterly reports for October 2006, January 2007 and April 2007. Second, she found no response to Dineros' February 2005 letter requesting proof that the restitution victims actually received full payment. And finally, she discovered that Dineros had mistakenly filed at least five faxed reports instead of the required originals.

As a result of the file review, Jollotta called Wanland in May 2008, and requested the missing items. She claimed that he seemed annoyed and "hung up" on her. In June 2008, she sent Wanland a follow-up letter seeking the same information. He denied hanging up on Jollotta and receiving her letter. When Jollotta did not hear from Wanland, she referred his probation violations to the State Bar. In turn, the State Bar filed this case on November 18, 2008.

# V. CULPABILITY FINDINGS

# COUNT 1: BUSINESS AND PROFESSIONS CODE SECTION 6068 SUBDIVISION (K) – FAILURE TO COMPLY WITH PROBATION CONDITIONS

The State Bar has charged that Wanland violated Business and Professions Code section 6068, subdivision (k),<sup>2</sup> because he failed to timely comply with probation conditions in three

<sup>&</sup>lt;sup>2</sup> Section 6068, subdivision (k), requires an attorney "[t]o comply with all conditions attached to any disciplinary probation, including a probation imposed with the concurrence of the attorney."

ways: (1) he failed to file quarterly reports on time; (2) he failed to satisfy the Ethics School requirement and timely file proof; and (3) he failed to file the last three quarterly reports.

At trial, Wanland stipulated to the first two allegations, and the hearing judge found him culpable. We agree. As to the third allegation, the hearing judge found that the State Bar failed to prove Wanland did not file his last three quarterly reports. Again, we agree. The State Bar relied exclusively on Jollotta's testimony that the reports were missing from the file to prove that Wanland did not submit them, even though she did not assume responsibility for the matter until 15 months after Dineros left. Wanland thought he had submitted the reports to Probation, but was not certain because so many years had passed. Probation did not actively monitor his case for 15 months after Dineros retired. The State Bar's evidence does not clearly and convincingly establish that Wanland failed to file the final three reports.

On review, Wanland presents two primary defenses to culpability for violating probation: He did not act willfully and he substantially complied with probation. We reject both for reasons outlined below.

Wanland first contends that he did not *willfully* violate probation since he never intended to act in "bad faith," citing Black's Law Dictionary's definition of "willful." He claims he merely acted negligently and filed tardy reports because of the "press of business," "illness" or "being out of town." Willful misconduct in attorney discipline matters does not require bad faith, but calls only for a general purpose or intent to commit an act or make an omission.<sup>3</sup>

All further references to "section(s)" are to the Business and Professions Code unless otherwise noted.

<sup>3 (</sup>See Durbin v. State Bar (1979) 23 Cal.3d 461, 467 [general intent for willful violations of Rule 955(c)]; Zitny v. State Bar (1966) 64 Cal.2d 787, 792 [general intent for willful violations of Rules of Professional Conduct]; In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302, 309 [general intent for willful "probation revocation (and other disciplinary) proceedings"].)

Wanland knew about each filing deadline, but ignored them until Dineros called to remind him.

This repeated conduct demonstrates he acted with a general purpose or intent to file late reports.<sup>4</sup>

Wanland next contends that he substantially complied with the probation requirements and his late filings were merely technical violations. We cannot excuse even "insubstantial" or "technical" violations because probationers must fully comply with all aspects of probation conditions. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 537.) "[S]ubstantial compliance with a probation condition is not a defense to culpability. [Citation.]" (*In the Matter of Rose* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 646, 652.)

## VI. AGGRAVATION AND MITIGATION

The offering party bears the burden of proof for aggravating and mitigating circumstances. Wanland must establish mitigation by clear and convincing evidence (std. 1.2(e)),<sup>5</sup> while the State Bar has the same burden to prove aggravating circumstances. (Std. 1.2(b).)

## A. THREE FACTORS IN AGGRAVATION

Like the hearing judge, we find three factors in aggravation. First, Wanland committed prior misconduct when he violated the bankruptcy court orders resulting in sanctions, prompting the underlying discipline order. (Std. 1.2(b)(i).) Second, he committed multiple acts of wrongdoing when he repeatedly filed late probation reports. (Std. 1.2(b)(ii).) In fact, Wanland needed continual reminders to file the reports, which is "inconsistent with the self-governing nature of probation as a rehabilitative part of the attorney disciplinary system." (*In the Matter of* 

<sup>&</sup>lt;sup>4</sup> We strike the Black's Law Dictionary attachment to Wanland's opening brief. Since this document was not admitted at trial, it violates rule 306(a) of the Rules of Procedure of the State Bar that permits us to consider only evidence in the Hearing Department record.

<sup>&</sup>lt;sup>5</sup> All further references to "standard(s)" are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct unless otherwise noted.

Gorman (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567, 573.) Third, Wanland committed uncharged misconduct by failing to provide Probation with proper proof of restitution.

(Std. 1.2(b)(iii).) Although he made all restitution payments, he did not furnish proof that the IRS and Wells Fargo Bank actually *received* payment, by either cancelled check (front and back) or payee declaration, as Probation had requested. We assign moderate weight to the totality of the aggravation evidence.

### **B.** TWO FACTORS IN MITIGATION

We agree with the hearing judge that Wanland proved two factors in mitigation.

First, and most significantly, the State Bar delayed filing the NDC. (Std. 1.2(e)(ix); see *Sodikoff v. State Bar* (1975) 14 Cal.3d 422, 431-432 [whether delay constitutes mitigating circumstance determined on case-by-case basis]; see also *In the Matter of Carr* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 244, 257 [std. 1.2(e)(ix) particularly relevant in probation revocation proceedings that must be expedited].) Wanland urges that this delay entitles him to a dismissal because he could not remember important facts, including whether he submitted the final three quarterly reports. But he suffered no legally cognizable prejudice in this case because the State Bar did not successfully prove that he failed to file his final reports, and Wanland stipulated to the other late filings. Even so, it is unacceptable that the State Bar filed the NDC 18 months after Wanland's probation had expired and five years after he had paid restitution and completed Ethics School. (See *In the Matter of Wolff* (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1, 13 [delay may be considered in mitigation even though no prejudice].) <sup>6</sup> The delay significantly mitigates this case.

<sup>&</sup>lt;sup>6</sup> We also reject Wanland's claim for dismissal under the affirmative defenses of laches, estoppel, ratification and waiver since he suffered no prejudice, as described above.

As a second mitigation factor, we assign some credit to Wanland for belatedly completing all of the terms of his probation. (*In the Matter of Gorman, supra*, 4 Cal. State Bar Ct. Rptr. at p. 572 ["some" mitigation for sincere "steps to make restitution and comply with probation"]; *In the Matter of Rose, supra*, 3 Cal. State Bar Ct. Rptr. at p. 652 ["belated compliance with a probation condition may be considered as a mitigating factor in determining discipline"].) Notably, Wanland paid full restitution as a condition of probation by making monthly payments for two and a half years. (See *In the Matter of Taggart, supra*, 4 Cal. State Bar Ct. Rptr. at pp. 310-311 [restitution is important indicator of attorney rehabilitation].)

Overall, the mitigation outweighs the aggravation.

### VII. PRINCIPLES OF LAW AND ANALYSIS

### A. STATUTE OF LIMITATIONS

Rule 51(a) of the Rules of Procedure of the State Bar governs the statute of limitations in attorney discipline matters and provides: "A disciplinary proceeding based solely on a complainant's allegation of a violation of the State Bar Act or Rules of Professional Conduct shall be initiated within five years from the date of the alleged violation." Wanland contends that his first two late quarterly reports in October 2002 and July 2003, and his Ethics School compliance on June 12, 2003, are time-barred under rule 51(a). We reject this contention since the State Bar initiated this case and rule 51(a) applies only to charges initiated by third-party complaints. (*In the Matter of Wolff, supra,* 5 Cal. State Bar Ct. Rptr. at p. 9.)

# B. DISCIPLINE

The purpose of attorney discipline is not to punish the attorney, but to protect the public, the courts and the legal profession, to maintain high standards for attorneys and to preserve

<sup>&</sup>lt;sup>7</sup> All further references to "rule(s)" are to the Rules of Professional Conduct of the State Bar unless otherwise noted.

public confidence in the profession. (Std. 1.3.) There is no fixed formula to determine the appropriate discipline. (*In the Matter of Brimberry* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 390, 403.) Ultimately, we balance all relevant factors, including mitigating and aggravating circumstances, on a case-by-case basis to impose discipline consistent with its purpose. (*In re Young* (1989) 49 Cal.3d 257, 266.)

Two standards guide our analysis. Standard 2.6(a) provides that an attorney who violates section 6068 should be suspended or disbarred, depending on the gravity of the offense and the harm to the victim. Standard 1.7(a) calls for progressive discipline where an attorney has previously been disciplined unless the prior was so remote in time or so minimal in severity that a greater discipline would be manifestly unjust. Wanland's earlier discipline was neither remote nor minimal and we therefore apply progressive discipline.

Case law further assists our analysis. Discipline for probation violations spans from imposing the entire stayed suspension to extending the probation period with no actual suspension. (*In the Matter of Potack, supra,* 1 Cal. State Bar Ct. Rptr. at p. 540.) Cases that recommend actual suspensions involve more serious probation violations than Wanland's late filings and therefore do not offer useful guidance. Those violations include failing to complete probation, making no restitution payments or significantly late payments, or having an extensive prior discipline record.<sup>8</sup>

<sup>&</sup>lt;sup>8</sup> (See, e.g., *In the Matter of Gorman, supra,* 4 Cal. State Bar Ct. Rptr. at pp. 572-575 [30-day actual suspension for paying restitution nine months late and failing to timely attend Ethics School]; *In the Matter of Taggart, supra,* 4 Cal. State Bar Ct. Rptr. at pp. 311-313 [six-month actual suspension for failing to pay any restitution over three years and attempt to discharge restitution obligation in bankruptcy]; *In the Matter of Tiernan* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 523, 528 [one-year actual suspension for failing to timely submit five reports or to cooperate and four prior discipline records]; *In the Matter of Broderick* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138 [one-year actual suspension for failing to make any restitution payments or obtain counseling and filing no quarterly reports].)

If timely prosecuted, we might ordinarily recommend an actual suspension for Wanland's probation violations. But the State Bar's filing delay mitigates this matter and compels us to make an exception since Wanland has made substantial progress toward rehabilitation. In particular, he has completed probation, paid restitution, demonstrated remorse and expressed a sincere desire to abide by probation deadlines on his own initiative. (See *In re Chira* (1986) 42 Cal.3d 904, 909 [actual suspension ordinarily warranted but not imposed because it would be punitive under compelling circumstances of case].)

Mindful that the goals of probation are to protect the public and rehabilitate the attorney (*In the Matter of Potack, supra,* 1 Cal. State Bar. Ct. Rptr. at p. 540), we recommend a 90-day stayed suspension subject to a one-year probation. This discipline is progressive under standard 1.7(a) since Wanland received a 60-day stayed suspension in his prior disciplinary case. The new probation period will give him an opportunity to fully comply with all of Probation's directives. Wanland will face further progressive discipline or even disbarment if he violates probation or commits any future misconduct since it would be his third discipline. (Std. 1.7(b); *In the Matter of Rose, supra,* 3 Cal. State Bar Ct. Rptr. 646, 654-655 [disbarment recommended where attorney's third and fourth disciplines were for probation violations].)<sup>9</sup>

#### VIII. CONCLUSIONS OF LAW

The State Bar's excessive delay in filing the NDC sufficiently mitigates this case to justify recommending a stayed suspension for Wanland's violations of his 2002 probation.

#### IX. RECOMMENDATION

<sup>&</sup>lt;sup>9</sup>The State Bar did not seek review but makes three requests: (1) increase the actual suspension; (2) find aggravation for lack of remorse; and (3) reverse the hearing judge's finding that the State Bar did not prove Wanland failed to submit his final three quarterly reports. The State Bar's requests are denied for lack of evidence or as meritless for reasons set forth in this opinion. Although we conduct *de novo* review of all issues, we discourage responding parties from requesting review of issues that the appellant did not raise. (*In the Matter of Thomson* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966, 977.)

We recommend that Donald Martin Wanland, Jr. be suspended from the practice of law in the State of California for 90 days, that execution of that suspension by stayed, and that he be placed on probation for one year on the following conditions:

- 1. Wanland must comply with the provisions of the State Bar Act and the Rules of Professional Conduct.
- 2. Within 10 days of any change in the information required to be maintained on the membership records of the State Bar pursuant to Business and Professions Code section 6002.1, subdivision (a), including his current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, he must report such change in writing to the Membership Records Office of the State Bar and the State Bar's Office of Probation.
- 3. He must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, he must state whether he has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. In addition to all quarterly reports, a final report, containing the same information, is due no earlier than 20 days before the last day of the probation period and no later than the last day of the probation period.
- 4. Subject to asserting applicable privileges, he must answer fully, promptly, and truthfully, any inquiries of the Office of Probation which are directed to him personally or in writing, relating to whether he is complying or has complied with the conditions contained herein.
- 5. Within one year of the effective date of the discipline herein, he must submit to the Office of Probation satisfactory evidence of completion of the State Bar's Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and he shall not receive MCLE credit for attending Ethics School. (Rules Proc. of State Bar, rule 3201.)
- 6. The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the period of probation, if he has complied with all conditions of probation, the 90-day period of stayed suspension will be satisfied and that suspension will be terminated.

### X. PROFESSIONAL RESPONSIBILITY EXAMINATION

We further recommend that Wanland be ordered to take and pass the Multistate

Professional Responsibility Examination administered by the National Conference of Bar

Examiners within one year of the effective date of the Supreme Court order in this matter and to

provide satisfactory proof of such passage to the Office of Probation within the same period. Failure to do so may result in an automatic suspension. (Cal. Rules of Court, rule 9.10(b).)

# XI. COSTS

We further recommend that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in section 6140.7 and as a money judgment.

PURCELL, J.

We concur:

REMKE, P. J.

EPSTEIN, J.